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ABSTRACT

This paper summarizes existing research on policy-relevant analyses that have focused on charter schools and students with disabilities. The research was not reviewed in depth and study methodologies were not critiqued; the report mainly provides an indication of what more rigorous research may reveal. Nevertheless, findings show that charter schools do not exclude students with disabilities. Parents who send their disabled students to charter schools and other schools of choice believe that these schools are more effective at meeting individual student needs, at keeping parents informed, and at providing mainstreaming options. These parents are also dissatisfied with the bureaucracy in regular public schools and the stigma attached to special education. The findings also reveal no evidence suggesting that special education destabilizes school budgets. Other results indicate that charter schools vary tremendously in terms of key school characteristics, that students with disabilities attending charter schools are entitled to the same due-process protection as those attending other public schools, that districts and states may not be holding charter schools rigorously accountable for academic outcomes, and that relatively few charter-school operators have received training as education administrators. An annotated bibliography appears in an appendix. (Contains 24 references.) (RJM)

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Charter SCHOOLS and Students with Disabilities

Review of Existing Data

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Introduction

Few reforms in American education can boast the diversity of support that the charter school movement can, or claim such rapid and widespread implementation. With the backing of conservative and progressive policymakers, more than half the states, the District of Columbia, and Puerto Rico have passed charter school legislation, and the number of charter schools nationwide now exceeds 700. In his 1997 State of the Union message, President Clinton called for 3,000 charter schools by the year 2000. The charter school movement's success stems from the opportunities it provides, at least in principle, for unfettered site-based management, instructional, and other innovations, school choice, specialized services to specific populations, and public accountability.

To be successful in educating all students, charter school operators must address a variety of issues related to special education, including equitable enrollment of students with disabilities, determination of special education eligibility, provision of educational and related services, assessment and reporting of student progress, sustained supply of certified teachers and related service providers, special transportation when needed, and administration of due process. In determining how to address these issues, charter school operators are variously affected by broad issues that are germane across the charter school community, such as the degree of autonomy of the individual school, financial considerations, the school operators' level of legal and business expertise, relationships with local districts and state departments, and accountability demands (Education Commission of the States, 1995).

To provide background information for our study of charter schools and students with disabilities, we have reviewed existing information and prepared a brief narrative summary and an annotated bibliography. In this paper, we provide a summary of existing research data and of the policy-relevant analyses that have focused on charter schools and students with disabilities. Our purpose is not to evaluate previous research but to summarize it. We have not reviewed the researchers' methods in depth and cannot substantiate the validity of

reported data. We are aware that some of the work we describe here was conducted or sponsored by individuals and organizations that have previously taken strong positions regarding charter schools. Nevertheless, reviewing available data serves our need for background information for our study. We do not draw conclusions based on the available data, because we have not closely examined research methods.

Overall, the available data are far from comprehensive. In fact, in most areas they are scant. The sections below summarize the information that was available at the end of 1997. We attach the annotated bibliography as an appendix.[1]

[1] In a separate paper, we have examined how state charter school statutes address key issues related to students with disabilities (Fiore & Cashman, 1998)

Enrollment

The great variation in state laws governing charter schools and in individual school charters makes fertile ground for experimentation (Szabo & Gerber, 1996). The potential for innovation and school autonomy, however, has generated concern among some disability advocates who worry about the lack of clarity regarding instructional practices and accountability schemes and about the possibility that some schools may exclude students with disabilities. In fact, in his examination of Arizona's 46 charter schools operating during the 1995-96 school year, McKinney (1996) found that only 4 percent of children enrolled in the schools were receiving special education services and that evidence suggested that charter schools were trying to avoid serving students with disabilities.

Particularly relevant to these concerns is Heubert's (1997) analysis of the applicability of federal disability laws and regulations to charter schools. Heubert concluded that all charter schools are required to comply with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act. He noted that these federal laws affect central aspects of schooling for students with disabilities–including enrollment, curriculum, pedagogy, and discipline–to a greater degree than do most state and local laws. Heubert further concluded that charter schools, especially those operating as LEAs, may have greater obligations than traditional public schools to enroll students with disabilities. He reasoned that, due to the distinctive nature of the educational services at most charter schools, students who apply would not have equal educational opportunity if that unique charter school experience were not readily available to them.

As more charter schools have opened, disability advocates may have some reason to reduce their concerns about discrimination against students with disabilities. Preliminary results from the National Charter School Study sponsored by the U.S. Department of Education indicate that, overall, at least 7.4 percent of students enrolled in charter schools in January 1996 were students with disabilities (RPP International & University of Minnesota, 1997). According to the researchers, the prevalence of students with disabilities

could actually be higher because some charter school operators, who believe they deliver individualized instruction to all students, are reluctant to report students as receiving special education services.

Other studies also suggest that students with disabilities may be under-identified, but not under-enrolled, in charter schools. For example, Finn, Manno, and Bierlein (1996) examined a nonrepresentative sample of 35 charter schools in seven states and found that (1) 8 percent of students had individualized education programs (IEPs), (2) 5 percent did not have IEPs but "would have had one in their former public school," and (3) 6 percent were "other students with serious learning impediments." In a related study, Vanourek, Manno, Finn, and Bierlein (1997) also concluded that the rates of special education students would be higher when factoring in the number of students with learning impairments who did not have IEPs. By the authors' estimate, 12.6 percent of the students in charter schools were students with disabilities: 7.7 percent had a formal IEP, 3.5 percent did not now have an IEP "but probably would have had one in their former public school," and 1.4 percent were students with "other serious learning impediments." They compared the combined figure of 12.6 percent to the 10.4 percent receiving special education services in public schools. Relatedly, SRI International's study of California charter schools (Powell, Blackorby, Marsh, Finnegan, & Anderson, 1997) found that many charter school operators did not know if their students had IEPs prior to enrolling because the charter school experienced difficulty obtaining information from districts or from parents who were reluctant to disclose special education status.

Most important, rather than excluding students with disabilities, many charter schools specifically target these students. The National Study identified 15 schools with an enrollment that was more than 25 percent students with disabilities and two schools with 100 percent (RPP International & University of Minnesota, 1997). The study also found that charter schools in two states, Minnesota and Wisconsin, had enrollments of students with disabilities (18.5 and 12.2 percent respectively) that were higher than both the national rate and their own public school rates. Another University of Minnesota study found that approximately 25 percent of the nearly 2,000 students enrolled in charter schools in

Minnesota had active IEPs, which was 10 percentage points higher than for the host districts (Center for Applied Research and Educational Improvement, 1997; Lange, 1997).

In a study of Colorado charter schools, McLaughlin, Henderson, and Ullah (1996) found that the 19 schools (out of 24) that responded to their survey served approximately the same proportion of students with disabilities (7.3 percent) as schools did statewide (9.1 percent). Interestingly, the researchers also found that individualized instruction and small class size–hallmarks of many charter schools–may have resulted in increasing enrollment of non-identified students with disabilities who are in need of special education services. Once enrolled, many of these students are not referred to special education because school staff believe that they can provide the necessary individualized support and that there is no financial incentive for identifying these students.

Parent Choice and Satisfaction

Ysseldyke, Lange, and Gorney (1994) reported a variety of reasons parents of students with disabilities gave for a preference for charter and other schools of choice. These included the schools' more effective efforts at meeting individual student needs, keeping parents informed, and providing mainstreaming options. Particularly for students with emotional and behavioral disorders and those with multiple disabilities, transfer determinants were most closely related to dropout avoidance. Specifically in regard to charter schools, Vanourek *et al.* (1997) reported survey results from 12 states indicating that parents of students with disabilities chose charter schools following dissatisfaction with the regular public school, including dissatisfaction with the bureaucracy and the stigma attached to special education.

Some preliminary evidence of parental satisfaction with charter schools indicates success with students with disabilities (Lange, 1997). Vanourek *et al.*'s (1997) 12-state parent survey found that parents are reporting that students with disabilities are experiencing significant academic gains in charter schools. According to Finn, Manno, and Bierlein (1996), based on their look at 35 charter schools in seven states, indicators of parent satisfaction include waiting lists, high rates of reenrollment, and increased parental involvement. These preliminary findings are true for parents of students without disabilities as well as those of special education students.

Financing Special Education

The impact of students with "special needs" on a budget is frequently raised as a barrier to the fiscal viability of charter schools, particularly for small, newly created schools (Bierlein & Fulton, 1996). Relatedly, lack of funding for start-up costs and facilities has been identified as a significant barrier to efficient operations, particularly those costs for bringing buildings up to code and removing physical barriers (Buechler, 1996). Additional start-up costs that are frequently not covered include curriculum development and staff development (McLaughlin, Henderson, & Ullah, 1996). But, despite concerns, no evidence has been reported to date of special education programs causing schools to reach fiscal instability.

In a study of Minnesota charter schools that were operating or preparing for operation in early 1994, Urahn and Stewart (1994) identified funding of special education services as a critical issue to charter school operators as they learned that not all special education service costs are reimbursed. Many operators were unfamiliar with the funding process and were not prepared to provide assessments or recommended services. Some did not have sufficient funds to secure expensive or scarce specialized services (such as vision therapists or occupational therapists). Charter school operators were frequently unprepared for the costs of providing special education services because they assumed the district would meet the need.

Some investigators (e.g., Buechler, 1996) have suggested that special education finance issues may become more important in charter schools because they do not have access to cost-controlling measures available to most districts, such as the use of general operating funds to support excess-cost special education services or the cooperative regionalization of special education services. To ameliorate this potential problem, several schools in Colorado use an approach that involves "risk pooling" or "banking" (McLaughlin, Henderson, & Ullah, 1996). Charter school operators and districts negotiate special

education services to be provided by the district. Schools bank the funds with the district, which pays for all needed evaluation and instructional services. This program is highly beneficial to those schools with high-cost students, but may result in a net loss to individual charter schools in the years when they serve few high-cost special education students.

Funding allocation patterns for special education differ between independent charter schools (i.e., those treated as LEAs) and those considered part of a district, according to a Government Accounting Office (GAO) report to Congress (*Charter schools: Issues affecting access to federal funds*, 1997). Preliminary results of case studies and telephone surveys conducted with 32 charter school operators in seven states (Arizona, California, Colorado, Massachusetts, Michigan, Minnesota, and Texas) indicated that only half of the charter schools received IDEA funds or IDEA-funded services. Of those 16 schools that did not receive IDEA funds or services, 11 reported not applying for them. The reasons they cited were lack of time, self-determination of ineligibility, lack of knowledge of funding availability, or application costs exceeding potential funding award. The report does not explain why five schools applied for but did not receive IDEA funds or services. In general, charter school operators surveyed believed they were receiving an equitable share of Title I and IDEA funds, although differences existed between independent charter schools and those considered part of a district. Operators of independent schools were evenly divided as to whether they received what they considered their fair share of IDEA funds and services, while more than 80 percent of the district-affiliated school operators reported receiving their equitable share. The report concluded that a number of barriers impede access to funds and services, including (a) insufficient student enrollment and eligibility data available prior to state submission deadlines, (b) time required and costs involved in applying for funding, and (c) philosophical differences between IDEA requirements and school missions.

Instruction

Research confirms that charter schools vary tremendously in terms of school size, student demographics, educational purpose, and other key school characteristics, including instructional approach (Education Commission of the States, 1995; RPP International & University of Minnesota, 1997). In their examination of Colorado charter schools, McLaughlin, Henderson, and Ullah (1996) found considerable diversity in both curriculum and instruction. Some schools had a structured academic focus, others were experiential and utilized a student-directed learning approach, and some focused on a specific subject matter. Furthermore, more than half of charter schools are newly created and the remaining schools converted from private schools or existing public schools or programs (RPP International & University of Minnesota, 1997). The implications for students with disabilities of different school histories and different instructional models are largely unknown.

One study highlighted concerns regarding the effect of instructional models. McKinney and Mead (1996) examined districts offering school choice, not charter schools per se, and found that the specialized approach many schools adopt in providing instruction has resulted in a multitude of unique curricula. Those schools that adopt a single curriculum or one instructional approach may have problems serving some students, including those with disabilities. Based on case studies developed in five urban districts, the researchers reported that where one instructional approach is available in a school and this approach is not aligned with a student's needs or learning abilities, the school has difficulty developing and implementing an IEP that is relevant to the student.

Due Process and FAPE

Charter school students with disabilities are entitled to the same due process protection as their peers attending other public schools. As charter schools become more established, parents are beginning to exercise their due process rights in an effort to establish quality special education programs in the schools. In Boston, a recent complaint to the U.S. Department of Education's Office for Civil Rights (OCR) resulted in an OCR directive to the Renaissance Charter School (*OCR finds*, 1997) ordering the school to provide the claimant with special education services by qualified staff and to change its disciplinary policies to include provisions for students with disabilities as established in IDEA. In addition, OCR directed the school to submit its policies regarding least restrictive environment, discipline, and grievance. In the case that led to the OCR investigation, the student's parents had declined evaluations to determine special education eligibility. But, because the student had a previously documented disability, OCR was obligated to review the case and the school's entire special education program. Charter school advocates have complained that this case illustrates the difficulties of a joint venture between special education and charter schools, thus provoking controversy in the charter school community over the ability of charter schools to be free of "micro management" (Manno & Vanourek, 1997).

In their case study research in five urban districts offering choice, McKinney and Mead (1996) uncovered a number of potential challenges related to maintaining compliance with federal special education statutes while providing parents with school choice. The central issue identified by the researchers is how states and districts can offer parents choice when federal statutes require that placement and instruction decisions be made by a multi-disciplinary team during the IEP development process. They concluded that local educators needed to acknowledge the continuing FAPE obligation, design choice programs such that all choices are consistent with individualized determinations of FAPE, determine which special education interventions are services (and thus potentially portable) and which are programs (site-bound), and develop clear rationales for maintaining site-bound programs.

Accountability

A 1996 report by the American Federation of Teachers noted with concern that only 17 of 25 states with charter school legislation required that charter schools use the same tests as other public schools to document student learning and called for all states to require that charter schools participate in state accountability systems. According to the report, the absence of comparison data in some states is "highly problematic" because charter schools promise greater accountability for results in exchange for increased autonomy. In contrast, charter school directors in Colorado expressed concern to researchers that state standards and assessments could result in curriculum uniformity and limit charter schools' flexibility to innovate (McLaughlin, Henderson, & Ullah, 1996).

A study of California charter schools by SRI International (Powell *et al.*, 1997) provided data related to the accountability issue that has interesting implications for these concerns. California is one of the states the AFT identified as requiring that charter schools use the same tests as other public schools. The SRI study, focusing on accountability in general, not specifically on special education populations, found that district and county sponsors were diligent about financial accountability but that charter school accountability for academic outcomes was less rigorous. In response to surveys, 91 percent of schools reported that they sent financial data to their sponsors, and the California charter law requires annual financial audits of all charter schools. Eighty-five percent of charter schools reported sending student achievement data to their sponsors, but only 4 percent of schools and 8 percent of sponsoring agencies reported that the sponsor had ever "requested specific actions or imposed sanctions" in response to those data. In fact, the percent of sponsoring agencies requesting actions or imposing sanctions was higher for noncharter schools (17 percent). The SRI report highlights this finding because the specific intent of California's charter school law was to substitute performance-based accountability for rule-based accountability.

Technical and Business Expertise

A number of investigators have suggested that lack of the technical knowledge and expertise to administer a school and run a business is a critical issue facing charter school operators (Buechler, 1996; Corwin, Carlos, Lagomarsino, & Scott, 1996; McLaughlin, Henderson, & Ullah, 1996). Many operators began their schools out of a desire to create a positive learning environment for students, teachers, and families. Relatively few, however, had received training as educational administrators or small business owners. (In most states, charter school directors are not required to hold principal certification.) Thus, few directors are likely to possess the breadth of knowledge necessary to handle the educational demands or the multitude of business related activities of a school (e.g., personnel, budget, transportation, physical plant).

Given the limited resources available to many charter schools, providing necessary services such as those related to personnel, food, and transportation may present particularly challenging problems for inexperienced management. For example, Urhan and Stewart (1994) found that district-provided transportation was a problem in virtually all of the Minnesota charter schools that were operating or preparing for operation in early 1994. For many schools and districts, tensions resulted from difficulty in coordinating the calendars and schedules of the charter and traditional schools. The problems were more complicated when students attended the charter school from out of district and decisions had to be made regarding whether the school, family, or district was responsible for transportation.

Of particular relevance to students with disabilities was Urhan and Stewart's (1994) finding that many charter school operators were unfamiliar with the special education funding process and were unprepared to provide assessments and recommended services. Many assumed the district would meet the need. Initially, several charter schools had difficult relationships with their local districts due to special education issues involving transportation, funding, and provision of services. Some other preliminary evidence suggests that relatively few charter school operators are conversant in the requirements of IDEA, Section 504, and ADA (*Charter schools and special ed*, 1997). Few understand the

technical aspects of reporting, which are important in obtaining adequate funding. In fact, some schools may have opted not to pursue special education funding because operators consider the process too complicated or time consuming for the return on the dollar (*Charter schools: Issues affecting*, 1997).

Coordination with LEAs and SEAs

The GAO presented a report to Congress in 1995 (*Charter schools: New model*) following an analysis of 83 charter schools in California, Colorado, Massachusetts, and Minnesota. The analysis was based on reviews of charter proposals, instructional programs, accountability systems, and financial relationships with sponsoring districts and included telephone interviews with principals and local and state officials. A lack of connection between some charter schools and their school districts was found to present significant barriers to effective implementation of special education and other federally sponsored programs, because districts typically acted as the conduit between schools and state and federal agencies in reporting and technical assistance. The lack of clear communication and accountability channels appeared to be contributing to insufficient technical expertise of charter school operators. Although focused more generally, the report raises concern about those schools that are considered to be LEAs. The report also has implications for determining which institution (the charter school or sponsoring district) is legally responsible for meeting the federal special education mandates and for securing sufficient funds to provide services. The report recommended that the U.S. Department of Education provide clarification on determining charter schools' legal responsibility for providing special education services.[2]

[2] The 1997 Amendments to the Individuals with Disabilities Education Act clarify these issues for charter schools that are considered to be part of an LEA [Section 613 (a)(5)]. For those schools, the LEA must serve children with disabilities "in the same manner as it serves children with disabilities in its other schools" and provide "funds under this part to those schools in the same manner as it provides those funds to its other schools." A charter school that is considered a freestanding LEA must be treated by the state the same as other freestanding LEAs. Thus, all charter schools must participate in identifying potentially eligible children, assessing them to determine whether or not they have disabilities and whether they need special education and related services, and developing and implementing an Individualized Education Program (IEP) for each child found eligible. The children have due process protections in relationship to the IEP and the educational services that they receive.

Summary

The charter school movement provides opportunities for site-based management, instructional innovations, and specialized services to specific populations. How well charter school operators will use these opportunities to meet the needs of students with disabilities is an issue that researchers are just beginning to address. The early data reported here set the stage for more thorough investigations and provide an indication of what more extensive or rigorous research may show. Overall, the information we have described in this paper is extremely limited in scope, and some data are of dubious quality. As noted previously, we did not review research methods in depth and cannot substantiate the validity of reported findings. The summary of findings presented below should be read with consideration of those caveats.

- In contrast to concern expressed by disability advocates that charter schools may exclude students with disabilities, students with disabilities are not greatly under-enrolled in charter schools. In fact, rather than excluding students with disabilities, many charter schools specifically target these students.

- Parents of students with disabilities enroll their children in charter schools and other schools of choice because they believe those schools are more effective at meeting individual student needs, keeping parents informed, and providing mainstreaming options, and because they are dissatisfied with the bureaucracy of regular public schools and the stigma attached to special education.

- Although the impact of students with special needs is cited as a barrier to the fiscal viability of charter schools, no evidence has been reported to date suggesting that special education costs caused fiscal instability in a school. Nonetheless, funding of special education services is a critical issue to charter school operators, and a number of factors may be barriers to access to funds, including the reporting of enrollment and eligibility data, the time and costs of applying for funding, a lack of clear communication between

some charter schools and their LEAs, and the philosophical differences between IDEA and school missions.

- Charter schools vary tremendously in terms of key school characteristics, including instructional approach. Schools with a single, specialized curriculum or instructional approach may have problems serving some students with disabilities.

- Students with disabilities attending charter schools are entitled to the same due process protection as those attending other public schools, and parent complaints are beginning to occur.

- Districts and states may not be holding charter schools rigorously accountable for academic outcomes promised in charters.

- Relatively few charter school operators have received training as education administrators. This lack of experience and knowledge may present particular problems for special education because relatively few charter school operators are conversant with the requirements of IDEA or other federal disability law.

- The lack of clear communication and accountability channels between some charter schools and their school districts may be contributing to insufficient technical expertise of charter school operators because districts typically act as conduits between schools and state and federal agencies.

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APPENDIX

Annotated Bibliography on Charter Schools and Special Education

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Based on the AFT criteria for effective charter legislation, this report analyzes the legislation in 25 states. These criteria reflect accessibility to all students, high academic standards, standardized methods for assessing student performance, collective bargaining agreements for staff, certification of teachers, approval of local school districts, and reporting requirements. None of the state laws met all of the criteria.

Although special education was not identified as a particular point of analysis, it was addressed in several of the criteria. For example, effective legislation should start with explicit language that ensures participation of all public school students. Schools that target students on the basis of academic or athletic ability are risking discrimination against students with disabilities. Likewise, schools that recruit "at-risk" students are not inclusive if the definition of "at-risk" is vague. Strategies for assessing student performance need to be adapted to reflect the unique learning styles and curricular needs of students with disabilities. School reporting should include student demographics that reflect the special needs of its students.

Bierlein, L. & Fulton, M. (1996). *Emerging Issues in Charter School Financing*. Denver, CO: Education Commission of the States.

This policy brief addresses a number of funding issues related to charter schools. Brief attention is paid to special education financing. Concerns have been raised regarding the potential budgetary impact of "special-needs" students (particularly on small charter schools). Although charter schools are enrolling students with disabilities (particularly those with learning disabilities and emotional/behavioral disorders), there are few reports of significant fiscal issues. The authors view this as an issue of increasing importance, however, because the individual per-pupil special funding is frequently less than the actual cost of services. Minnesota has addressed this by permitting charter schools to bill students' district of residence for excess special education costs.

Buechler, M. (1996). *Charter schools: Legislation and results after four years.* Bloomington, IN: Indiana Education Policy Center, School of Education, Indiana University.

Building on the results of the Center's 1993 policy bulletin on charter schools in two states (Minnesota and California), this bulletin provides an update of legislation and implementation in 19 schools. Charter schools appear to be enrolling a cross-section of students, including those with disabilities, at-risk for dropping-out, and gifted. Lack of funding for start-up costs and facilities was identified as a significant barrier to efficient operations. Of particular issue is the ability of school operators to bring buildings up to code and remove physical barriers–priorities that may not have funding support. Cost-controlling measures available to most districts (i.e., use of general operating funds to support excess-cost special education services, regionalization of special education services) are rarely available to charter schools. This is particularly true for those that are considered legally autonomous.

According to the report, another special education funding barrier was identified by school operators who develop individualized plans for all students. When schools provide this service to all students, funding is in jeopardy because it is no longer a special education service. Depending on the nature of the state charter school law, the ability to resolve such issues may center on the relationship between the school and the sponsoring district. The author calls for charter school operators and districts to negotiate special education funding and suggests a "banking" approach where the school pays its "fair share" to the district. In turn, all special education costs are paid by the district regardless of whether they exceed the school's deposited funds.

Center for Applied Research and Educational Improvement. (1997). *Minnesota Charter School Evaluation.* Minneapolis: University of Minnesota.

The University of Minnesota conducted an 18-month evaluation of Minnesota's charter schools, authorized by the State Board of Education. The evaluation team completed four types of data collection activities: development of a descriptive database of the state's currently operating charter schools (based on telephone surveys); two-day site visits to interview staff, parents, and district representatives and to conduct informal classroom observations; collaborative work with charter school staff to review performance data and additional survey data; and comparison of the state's charter school legislation and operating practices with those of other states. Findings were coded into the following categories: general characteristics; mission; boards; facilities; roles and perspectives of parents, teachers, and students; partnerships with community-based organizations; relationship to charter sponsor; characteristics of enrolled students;

performance of students; factors associated with charter school success; and state policies and laws compared to those of other states.

Although students with disabilities were not a focus of the study, they were briefly referred to in the section describing enrolled students. The report states that an "estimated average rate of 25 percent have a disability and an active individual education plan (IEP) (versus an average rate of 15 percent in the host districts)." The report also notes that enrollment rates varied widely across the individual schools.

Charter schools and special ed law: An imperfect union. (1997, October 25). *The Special Educator, 12* (7) 1, 8-11.

The article discusses the responsibilities of charter schools in meeting the mandates of IDEA, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act. Of particular issue is the degree of autonomy granted individual charter schools. Those schools located in states granting greater autonomy may be considered local education agencies, thus assuming responsibility for ensuring students with disabilities receive a free and appropriate public education. Charter schools not considered LEAs need to implement the IEP but are not held to the same level of responsibility as their more autonomous counterparts. The identification of individual schools as LEAs poses significant issues in determining whether a claim of "undue hardship" can be made in accommodating students with disabilities, and in the identification of the responsible parties (i.e., charter school, district of charter school location, district of target student).

The article concludes with a discussion of whether charter school operators are aware of their obligations under the law. While the level of knowledge varies from state to state, the consensus presented in the article is that operators are unaware of their responsibilities and will continue to be so until litigation or OCR complaints focus more on special education issues. A critical factor in the charter school operator's ability to meet the legal requirements is the technical skills necessary for implementation. Arizona is cited as a state that has taken special effort to insure that charter school operators have access to manuals and technical assistance specifically focusing on special education services in charter schools.

Charter schools: Issues affecting access to federal funds. (September 16, 1997). Hearings before the Subcommittee on Early Childhood, Youth and Families, Committee on Education and the Workforce, U.S. House of Representatives. Testimony of Cornelia M. Blanchette. (GAO/T-HEHS-97-216).

This testimony addressed two issues related to federal Title I and IDEA funds in charter schools: how funds are distributed to charter schools, and factors facilitating and impeding access to such funds. The presentation was based on preliminary results of case studies and telephone surveys (30 of 50 planned) of charter school operators in seven states (Arizona, California, Colorado, Massachusetts, Michigan, Minnesota, and Texas). Reported findings were that there does not appear to be a difference in allocation patterns between charter schools treated as LEAs (independent model) and those considered to be part of districts (dependent model). Descriptions of state funding plans were provided for each model. One-half of the surveyed schools receive funds or IDEA-funded services. One-third of the schools not receiving IDEA funds did not apply for such; the study did not determine whether they would have received funds if they had applied. Reasons for not applying included (1) lack of time availability, (2) self-determination of ineligibility, (3) lack of knowledge of funding availability, and (4) application costs exceeding funding award. In general, charter school operators surveyed believe they are receiving an equitable share of Title I and IDEA funds. But, while almost all operators of dependent model schools reported receiving their equitable share of IDEA funds, operators of the independent model schools were evenly divided as to whether they received their fair share.

A number of barriers were identified that impede access to funds including (1) insufficient student enrollment and eligibility data available prior to state submission deadlines, (2) time required and costs involved in applying for funding, and (3) philosophical differences between IDEA requirements and school missions. Operators identified factors that promoted accessing federal funds, including training and technical assistance from other charter school operator, LEAs, and SEAs; and notifications of funding opportunities and application requirements.

Charter schools: New models for public schools provides opportunities and challenges. (1995). Report to the Subcommittee on Labor, Health and Human Services Education and Related Agencies, U.S. Senate. (GAO/HEHS Report No. 95-42).

This report is based on an analysis by the U.S. General Accounting Office of charters of 83 schools in California, Colorado, Massachusetts, and Minnesota. The analysis included review of charter proposals, instructional programs, accountability systems, and financial and administrative relationships with the sponsoring districts. Phone interviews

were conducted with principals and local and state officials to collect information on individual schools, relationships with sponsoring districts, and state experiences in working with federal programs.

Although focused more generally, the report raised concerns about those schools that are considered to be LEAs. A lack of connection between some charter schools and their school districts was found to present significant barriers to effective implementation of special education and other federally sponsored programs. The lack of clear communication and accountability channels appeared to be contributing to insufficient technical expertise of charter school operators. The report concluded with recommendations that the Secretary of the U.S. Department of Education clarify charter schools' legal responsibility for providing special education services.

Corwin, R., Carlos, L., Lagomarsino, B., & Scott, R. (May, 1996). *From paper to practice: Challenges facing a California charter school* [On-line]. Available: wested.org/policy/pb_tubm.htm.

WestEd conducted an in-depth case study of the Harriet Tubman Village Charter School (San Diego, CA), which opened in September 1994. The purpose of the study was to obtain an understanding of the school's progress in meeting and implementing its mission, not to evaluate student performance, fiscal efficiency, or compliance with federal laws. Sources of data included school and district archives; parent questionnaires; review of research; informal and unstructured classroom observations; and interviews with school board members, district staff and administrators, school staff, school administrators, teachers, and parents.

Students with disabilities were reported to be served by a district specialist; however, no specific information was provided. Recommendations were provided in the areas of autonomy and accountability, educational programs, governance councils, parent choice, and charter school evaluation. No specific recommendations were made regarding special education, although closely aligned issues were a focus. These issues related to the need for (1) clearly defined lines of authority and liability between schools and sponsoring districts, (2) Governance Councils to understand policy issues, and (3) schools to be able to evaluate progress of all students.

Education Commission of the States. (1995). *Charter schools: What are they up to?* Denver, CO: Author.

Experiences of 110 charter schools in seven states (California, Colorado, Massachusetts, Michigan, Minnesota, New Mexico, and Wisconsin) are reported. Data were obtained via a four-page mail survey and phone interviews, and findings are based on a 66 percent

response rate. Virtually all of the respondents reported that their schools were designed to serve all students. Asked about specific types of students, 51 percent indicated that their schools were designed to serve at-risk students, 35 percent indicated that their schools were designed to serve students with learning disabilities, and 17 percent indicated that their schools were designed to serve students with physical disabilities. Sixty-seven percent of the schools reported offering special education. When asked to rank the top three out of seven listed reasons for chartering their school, serving at-risk youth ranked fifth and serving special populations ranked seventh.

Finn, C.E., Manno, B.V., & Bierlein, L.A. (1996). *Charter schools in action: What have we learned?* Washington, DC: Hudson Institute.

This interim report covers first year findings of a two-year study of charter schools focusing on start-up problems, solutions to those problems, and policy environments in which schools operate. (For the final report, see Vanourek, Manno, Finn, & Bierlein, 1997, below.) The authors examined a nonrepresentative sample of 35 charter schools in seven states and found that (1) 8 percent of students had individualized education programs (IEPs), (2) 5 percent did not have IEPs but "would have had one in their former public school," and (3) 6 percent were "other students with serious learning impediments." Indicators of parent satisfaction (based on responses of parents of students without disabilities as well as parents of special education students) include waiting lists, high rates of reenrollment, and increased parent involvement.

Heubert, J. P. (1997). Schools without rules? Charter Schools, federal disability law, and the paradoxes of deregulation. *Harvard Civil Rights-Civil Liberties Law Review, 32*, 301-353.

This article, which was written prior to the passage of the 1997 amendments to the Individuals with Disabilities Education Act (IDEA'97), examines the extent to which federal disability laws and regulations apply to public charter schools. Heubert drew two broad conclusions. The first is that all charter schools are required to comply with the provisions of IDEA, Section 504 of the Rehabilitation Act of 1973, and Title II of ADA. The author notes that these federal disability laws (particularly IDEA) affect central aspects of schooling, such as curriculum, pedagogy, and discipline, to a greater degree than do most state and local laws. Consequently, despite the fact that charter schools are often exempted from most state and local laws and regulations, they are hardly schools without rules. In actuality, charter schools experience very little autonomy when it comes to serving students with disabilities.

Heubert's second broad conclusion is that in some respects, charter schools, particularly those that operate independent from an LEA, may actually have greater obligations than

most traditional public schools to serve students with disabilities. He reasons that charter schools that are legally LEAs are required to comply with the same disability-related provisions as more traditional LEAs and districts, even though they do not have the advantage of a large budget to help absorb the cost. LEAs can cluster students (i.e., assign students with similar needs to one or more schools within the LEA) to avoid the need to provide expensive equipment, services, and staff at each school and to thereby reduce the cost burden associated with serving students with disabilities. Section 504 and Title II, however, establish stronger nondiscrimination restrictions for schools that offer distinctive or unique educational opportunities, a characteristic that is typical of charter schools. Due to the distinctive nature of the educational opportunities at most charter schools, these schools have more of an obligation to accept the students with disabilities who apply, because these students would not be similarly educated if that unique charter school experience were not available to them.

Heubert also concludes that there would be "grave consequences" if charter schools were not subject to federal laws prohibiting discrimination against students with disabilities. Without protection from discrimination, students with disabilities would not have access to the full range of school choices available to their nondisabled peers, violating longstanding public policies. Furthermore, the charter school experiment itself would be invalid because, if charter schools fail to serve the most costly and difficult-to-serve students, they will not be serving the same population as traditional public schools.

Lange, C. (1997, March). *School choice, charter schools, and students with disabilities*. Paper presented at the meeting of the American Educational Research Association, Chicago, IL.

The author reviewed school choice options in Minnesota (charter school, open enrollment, second chance, and postsecondary enrollment) as they pertain to students with disabilities. Among the findings specifically related to charter schools, (1) more than 25 percent of charter students are identified as eligible for special education; (2) the majority of these students are classified as learning disabled although all disability categories are represented; (3) parents of students with disabilities rated the special education services as a critical reason for enrollment; (4) charter schools experienced administrative and instructional difficulties due to the lack of a special education infrastructure; (5) parents reported improved student outcomes; and (6) parents reported satisfaction with availability of special education services compared to previous noncharter schools, although school personnel reported less availability of those services.

Recommendations are provided for future study included (1) identifying strategies for balancing the innovation of charter schools with the bureaucracy of special education; (2) addressing potential coercive practices by school districts that might encourage "difficult to teach" students to enroll in charter schools thus relieving them of their

responsibilities; (3) developing strategies for educating policymakers and school operators regarding special education best practices, requirements, and finance; and (4) developing strategies for involving special educators in early in reform initiatives.

Little Hoover Commission. (1996). *The charter movement: Education reform school by school*. [On-line]. Available: lhc.ca.gov/lhcdir/138rp.html.

This report contains findings of a state Commission's evaluation of California charter schools. The Commission conducted focus group sessions with 70 experts; convened two public hearings; visited 26 schools and met with operators, teachers, staff, parents, and students; and reviewed the national literature. A series of broad policy recommendations are provided. Although special education was not a focal point of the study, several recommendations may have direct relevance to students with disabilities. For example, state laws should be clarified to ensure that charter schools participate in the statewide testing process, benchmarking, and reporting.

McKinney, J.R. (1996). Charter schools: A new barrier for children with disabilities. *Educational Leadership, 54*(2), 22-25.

In this article, the author discusses several of his findings from a comprehensive study of charter schools in Arizona. During the spring of 1996, he visited several charter schools in Arizona; talked to charter school principals and staff, as well as state officials associated with charter schools; and reviewed all of the state's approved charter school contracts.

During the 1995-96 school year, only 4 percent of the children enrolled in Arizona's 46 operating charter schools were receiving special education services. Furthermore, only 17 of the 46 charter schools were serving students with disabilities, according to Arizona's Department of Education. In addition, the author discovered that in many cases, the state boards had approved charters that did not explain how the school would provide special education services and that did not even budget for special education students or teachers. Four formal complaints were filed by parents of students with disabilities within the first six months that charter schools in Arizona were in operation.

From his interviews the author concluded that Arizona charter school personnel lacked sufficient knowledge of federal and state special education laws and procedures. Much of the evidence suggested that charter schools were trying to avoid serving students with disabilities. The author recommended that independent charter schools attempt to establish cooperative arrangements with nearby districts or other charter schools in order to connect to existing service systems or to share resources. In addition, the author

suggested that states need to start monitoring charter schools to ensure compliance with IDEA.

McKinney, J.R., & Mead, J.F. (1996). Law and policy in conflict: Including students with disabilities in parental-choice programs. *Educational Administration Quarterly, 32,* 107-141.

This article addresses the dilemma of how to maintain compliance with federal special education statutes while providing parents the option of choice (including, but not limited to, charter schools). A central issue is how districts can offer parents choice when federal statutes require that placement decisions be made by a multi-disciplinary team during the IEP development process. Recommendations provided in the article were based on case studies developed in five urban districts offering choice. Recommendations were that policymakers (1) ensure that choice plan eligibility does not categorically exclude a class of students with disabilities based on that status; (2) recognize the continuing FAPE obligation and critically analyze all plans to identify threats to that responsibility; (3) design district-wide initiatives to be child-centered such that all choices made available to parents are commensurate with individualized determinations of FAPE; (4) critically examine the current service delivery pattern and make adjustments to maximize equity within the choice plan; (5) determine which special education interventions are services (portable) and which are programs (site-bound) and develop clear rationales for maintaining site-bound programs or program concentrations; and (6) ensure the procedures enacted for the choice program create no contamination of the procedural rights guaranteed under IDEA.

McLaughlin, M., Henderson, K., & Ullah, H. (1996). *Charter schools and students with disabilities.* Alexandria, VA: Center for Policy Research on the Impact of General and Special Education Reform.

This monograph is the result of a study of Colorado charter schools. Information presented is based on four sources: survey of 19 of the state's 24 operating charter schools, reviews of the contracts between 10 charter schools and their sponsoring districts, interviews with key state administrators and advocates, and site visits to four charter schools.

The authors outline the significant issues that emerged by sorting them into five categories: curriculum and instruction, fiscal constraints, management, community and parent involvement, and services for students with disabilities. In each category, specific issues have relevance for students with disabilities. For example, although charter schools are to be open to all eligible students, they may impose restrictive selection criteria, such as IQ of 130 or better, as long as those criteria are directly linked to the

purpose of the school. The potential for individualized instruction has resulted in increasing enrollment of non-identified special education students who are in need of special education services, and charter school operators are frequently unprepared for the costs of providing those services. Most charter school operators are not experienced school administrators and lack the financial and administrative skills necessary for running a charter school and special education programs.

Powell, J., Blackorby, J., Marsh, J., Finnegan, K., & Anderson, L. (1997). *Evaluation of charter school effectiveness*. Menlo Park, CA: SRI International.

California's Legislative Analyst's Office commissioned this study to evaluate the effectiveness of charter schools. From June to November 1997, researchers collected the data for the study from multiple sources including: state databases; a telephone survey to all charter schools with charters granted before January 1997; a mail survey to all district and county sponsors of charter schools; site visits to 12 charter schools; and interviews with state-level administrators, policymakers, policy analysts, and stakeholders.

A number of findings pertain to special education. For example, enrollment of special education students in charter schools was at 8 percent, while 9 percent of the total public school population in California received special education services. Start-up charter schools were less likely to serve special education students than conversion charter schools; 26 percent of start-up schools reported having no special education students enrolled versus 6 percent of conversion schools. Start-up charter schools, however, served more low-achieving students than conversion charter schools. Thirty percent of charter schools reported that being unable to meet a student's special needs could be a reason not to admit a student. Start-up schools were less likely than conversions to have teachers with special education credentials–77 percent of start-up schools reported that no full-time staff had special education credentials compared with 25 percent of conversion schools. Most of the school administrators in the case study had little knowledge in the special education area. In schools where the district was providing the special education services, many charter school directors were not involved in or even aware of the special education referral, assessment, and placement process. Administrators reported having problems obtaining student files from students' previous public schools and that parents often withheld information about special education status.

RPP International & University of Minnesota. (1997). *A study of charter schools: First-year report*. Emeryville, CA: Authors.

Sponsored by the U.S. Department of Education under authorization of the 1994 amendments to the Elementary and Secondary Education Act, this report presents

descriptive information obtained through a telephone survey and field work. Of the 252 charter schools operating in 1996, 225 responded to the survey. Researchers also conducted site visits to 42 of the 93 charter schools that had been open for at least one year in 1996.

Thirteen percent of the survey respondents indicated that they founded their schools to serve a special population of students, including at-risk, language minority, disabled, or ethnic minority students. The study's focus on students with disabilities was limited to questions related to the number of students served.

Schools reported a wide variation in enrollment rates of students with disabilities. Overall, 7.4 percent of students in responding charter schools had received special education services prior to their enrollment in a charter school. States differed in average proportions of students in charter schools who have disabilities. In all states except Minnesota and Wisconsin, the average percentages of students with disabilities in charter schools were below the state averages for all public schools. On the other hand, the researchers identified 15 schools enrolling more than 25 percent special education students, including two schools with 100 percent students with disabilities. The report authors cited a reluctance on the part of some charter school operators to classify students as special education because they try to deliver an individualized learning program to all students.

Szabo, J. M., & Gerber M. M. (1996). Special education and the charter school movement. *The Special Education Leadership Review, 3,* 135-148.

The authors present a brief overview of the charter school reform movement and some of the arguments for and against charter schools. Of primary concern is that they have the potential to become "elite academies," schools that primarily cater to the academically gifted. Such academic selectivity would surely affect the status of special education students. On the other hand, the authors point out that the greater operational autonomy of charter schools may have a positive effect on special education. In particular, freedom from state and district rules and regulations allows charter schools to restructure classrooms (e.g., lower student-teacher ratios) and develop new and innovative curriculums. Furthermore, the governing boards of charter schools often include parent members, which gives parents the opportunity to have a direct impact on the education of their children.

The authors describe their analysis of the state charter school laws that were in effect in April 1995 (12 states) in terms of the potential impact of various legislative elements on special education. They note that of the 12 state charter school laws reviewed, only four (Arizona, California, Colorado, and Michigan) specifically mentioned special education. Three of these laws (California, Colorado, and Massachusetts) discussed provisions for

special education funding and one (Arizona) addressed the need for charter schools to comply with federal and state special education laws. The authors identified other legislative elements that may have an impact on special education, including professional training, licensing, and staffing; regulations governing admission or exclusion of students; accountability provisions; and preferences or incentives for private or special design schools.

Urhan, S., & Stewart, D. (1994). *Minnesota charter schools: A research report.* Minneapolis, MN: House Research Department.

This report examines Minnesota charter schools that were operating and preparing for operation in early 1994. Multiple data sources were used including Minnesota Department of Education charter school documents; survey data collected from superintendents, school board members and parents; and site visits to operating charter schools.

Of particular relevance to special education was the finding that charter school proposals that focus on special student populations (i.e., at-risk, special education, drop-out) are most likely to be approved. The authors speculated that charter schools interested in including these students, who are difficult and expensive to serve, may drain fewer resources from the district. Funding of special education services was found to be a critical issue as charter school operators learned that not all special education service costs were reimbursed. Additionally, many operators were unfamiliar with the funding process and were unprepared for providing assessments and recommended services. Many assumed the district would meet the need.

Initially, several charter schools had difficult relationships with their local districts due to special education issues involving transportation, funding, and provision of services. At the time of the study, transportation was a problem in virtually all of the state's charter schools. For most schools and districts, tensions resulted from difficulty in coordinating the calendars and schedules of the alternative and traditional programs. This becomes more complicated when students attended a charter school from out of district and decisions had to be made regarding responsibility for transportation (i.e., school, district, or family). With regard to special education services, charter school operators frequently requested technical support and guidance from already overloaded local district staff.

Vanourek, G., Manno, B., Finn, C., & Bierlein, L. (1997). *The Educational Impact of Charter Schools* (Final Report, Part V). Washington, DC: Hudson Institute.

This report is the fifth in a six-part series reporting on a two-year study conducted by the Hudson Institute's Educational Excellence Network. Over this period, site visits, surveys, and interviews were conducted with parents, students, and teachers in 12 charter school states (Arizona, California, Colorado, Florida, Hawaii, Massachusetts, Michigan, Minnesota, New Jersey, North Carolina, Texas, and Wisconsin) and the District of Columbia. Investigators conducted more than 1,300 interviews and tabulated surveys from 4,954 students attending 39 schools, 2,978 parents from 30 schools, and 521 teachers in 36 schools.

The authors reported that charter schools appear to be enrolling their "fair share" of students with disabilities. By the authors' estimate, 12.6 percent of the students in charter schools were students with disabilities: 7.7 percent had formal IEPs, 3.5 percent did not now have an IEP "but probably would have had one in their former public school," and 1.4 percent were students with "other serious learning impediments." The authors compared this combined figure with 10.4 percent receiving special education services in public schools nationally.

The study found that parents choose charter schools following dissatisfaction with the public school–including dissatisfaction with the bureaucratization and stigma attached to special education. According to the parents surveyed, students with disabilities are experiencing significant academic gains in charter schools. Although the study addressed academic achievement based on performance on existing state or other large-scale assessments, performance of special education students was not disaggregated. The report includes a discussion of the competing tenets underlying charter schools and special education (i.e., flexibility and innovation versus federal regulatory oversight focusing on compliance).

Ysseldyke, J., Lange, C., & Gorney, D. (1994). Parents of students with disabilities and open enrollment: Characteristics and reasons for transfer. *Exceptional Children, 60,* 359-372.

This paper is based on the responses of 141 parents whose children with disabilities transferred schools during the 1990-91 school year under the Minnesota Open Enrollment program, which includes charter schools as one of seven options. The mail survey included questions regarding student demographics, reasons for participating in Open Enrollment, and types of special education received. Responses were not reported by enrollment option, so charter school data are not disaggregated. Charter schools were the newest option.

Based on the 141 parent responses, students with learning disabilities constituted the largest group of special education students who transferred (57 percent) followed by students with speech impairments (27 percent), emotional and behavioral disorders (13 percent), mental retardation (19 percent), hearing impairments (6 percent), early childhood special education needs (6 percent), and orthopedic disabilities (5 percent). Six special education-related issues were identified as reasons for transfer through the Open Enrollment program. They included special education needs are better met at the chosen school (64 percent), special education teachers keep parents more informed of child's progress (38 percent), school gives more options in special education programs (33 percent), more mainstreaming options (21 percent), school placed child in a special education program when the school district would not (4 percent), and the school did not place child in special education program when the district school did (3 percent). Particularly for students with emotional and behavioral disorders and those with multiple disabilities, transfer determinants appeared to be more closely related to dropout avoidance (43 percent and 50 percent, respectively) than was the case for other respondents.

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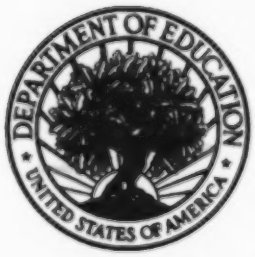

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